IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.358 OF 2005

M/s.Krebs Biochemicals Ltd. ... Petitioner
v/s.
ICICI Bank Limited & anr. ... Respondents

Mr.H.S. Shreepad Murthy for petitioner.

Mr.Chetan Kapadia with Ms.Rajashree Bhat and Mr.Vinod Kothari i/by M/s.Manilal Kher Ambalal & Co. for res.No.1.

Mr.A. Rama Rao for res.No.2.

CORAM : H.L. GOKHALE &
S.C.DHARMADHKARI, JJ.

DATED : 11TH MARCH 2005

P.C. :

1. Heard the learned Counsel for the parties.

2. Respondent No.1-Bank has filed an Original Application in the Debts Recovery Tribunal (for short "DRT") to recover the amount due to it from respondent No.2. The petitioner claims to have some right over the molasses lying in the sugar complex of respondent No.2. The petitioner joined in the proceedings initiated by the 1st respondent-Bank before the DRT. The DRT, however, passed an order on 28th September 2004 staying the

proceedings before it in view of the fact that the parties before the DRT were parties before the BIFR in the revival proceedings. The petitioner is seeking to challenge this order of stay passed on 28th September 2004.

3. Mr.Murthy, learned Counsel appearing for the petitioner, draws our attention to the order passed by the learned Single Judge on 22nd January 2004 in Writ Petition No.2985 of 2004 whereunder the application (Exhibit 31) filed by the petitioner in DRT was restored. That application prayed that the DRT be pleased to declare that the molasses lying in the godown of respondent No.2 exclusively belonged to the petitioner. The DRT has declined to pass any such order in view of the fact that the the proceedings for revival were pending before the BIFR and that order is referable to Section 22 of the Sick Industrial Companies Act.

4. We have noted the submissions of Mr.Murthy. The liberty granted by the learned Single Judge and restoration of the application (Exhibit 31) did not preclude the DRT from taking notice of the proceedings pending before the BIFR.

In view of this situation, the DRT was right in passing the order that it has. We do not find any error in the order. Petition is rejected.

(H.L. GOKHALE, J.)

(S.C.DHARMADHIKARI, J.)